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Special report of the Secretary-General on the United Nations Mission in Ethiopia and Eritrea

I. Introduction

1. The present report is submitted pursuant to paragraph 32 of my special report of 3 March 2008 on the United Nations Mission in Ethiopia and Eritrea (UNMEE) (S/2008/145), in which I informed the Security Council of my intention to prepare a second special report providing options and recommendations for any future United Nations peacekeeping presence in Eritrea and Ethiopia.

2. With the temporary relocation of UNMEE military personnel and equipment from Eritrea, as outlined in my previous special report, the Mission has reached a critical turning point. It is therefore important to set out the context of the developments leading to the temporary relocation of the Mission and to recount pertinent events since the signing by Eritrea and Ethiopia, in Algiers, of the Agreement on Cessation of Hostilities of 18 June 2000 and the Comprehensive Peace Agreement of 12 December 2000.

II. Agreement on Cessation of Hostilities

3. Under the Agreement on Cessation of Hostilities, Eritrea and Ethiopia committed themselves to resolving the border conflict and any other dispute between them through peaceful and legal means; rejecting the use of force as a means of imposing solutions to disputes; and respecting the borders existing at independence and determining them on the basis of pertinent colonial treaties and applicable international law and, in case of controversy, resorting to the appropriate mechanism of arbitration.

4. The two parties also committed themselves to an immediate cessation of hostilities, and requested the United Nations to deploy a peacekeeping operation to assist in the implementation of the Agreement. Ethiopia committed itself to submitting to the peacekeeping operation redeployment plans for its troops from positions taken after 6 February 1999 which were not under Ethiopian administration before 6 May 1998. Eritrea committed itself to maintaining its forces at a distance of 25 kilometres (artillery range) from positions to which the Ethiopian forces had redeployed. The zone of separation was to be referred to as the "temporary security zone". The parties guaranteed the freedom of movement and access of the peacekeeping mission and its supplies through their territories. In

addition, the parties committed themselves to respecting and protecting the members of the peacekeeping mission and its installations and equipment.

5. The parties also called on the United Nations and the Organization of African Unity (now the African Union) to establish a Military Coordination Commission, to be composed of representatives of both parties under the chairmanship of the head of the peacekeeping mission. The task of the Commission was to coordinate and resolve issues relating to the execution of the mandate of the mission, in particular military issues arising during the implementation period. In paragraph 5 of the Agreement, it is stipulated that the mandate of the peacekeeping mission "shall terminate when the delimitation-demarcation process of the border has been completed". The parties also requested the international community to take the necessary measures, including under Chapter VII of the Charter of the United Nations, should one or both parties violate the commitments reached under the Agreement.

III. Comprehensive Peace Agreement

6. Under the Comprehensive Peace Agreement, the two parties pledged to permanently terminate military hostilities between themselves; refrain from the threat or use of force against each other; respect and fully implement the provisions of the Agreement on Cessation of Hostilities; and release and repatriate prisoners of war and others detained as a result of the war.

7. Under the Agreement, the parties also agreed to establish a neutral boundary commission, mandated to delimit and demarcate the border between the two countries, based on pertinent colonial treaties and applicable international law. The Agreement set strict deadlines for the establishment and functioning of the commission, which was expected to commence work not more than 15 days after its constitution. The commission was to endeavour to make its decision concerning delimitation of the border within six months of its first meeting, following which it was to arrange for the expeditious demarcation of the border. The parties agreed that the delimitation and demarcation decisions of the boundary commission would be final and binding.

IV. Role of the United Nations Mission in Ethiopia and Eritrea

8. By its resolution 1312 (2000), the Security Council established the United Nations Mission in Ethiopia and Eritrea. Subsequently, in its resolution 1320 (2000), the Council further defined the mandate of UNMEE, which included monitoring the cessation of hostilities; assisting in ensuring the observance of the security commitments agreed by the parties; monitoring and verifying the redeployment of Ethiopian forces; monitoring the positions of the armed forces of both sides once redeployed; monitoring the temporary security zone; chairing the Military Coordination Commission; coordinating and providing technical assistance for humanitarian mine action activities in the temporary security zone and areas adjacent to it; and coordinating the Mission's activities with humanitarian and human rights activities of the United Nations and other organizations in those areas.

9. By its resolution 1430 (2002), the Security Council adjusted the Mission's mandate to include demining in support of the demarcation process, as originally envisaged in resolution 1320 (2000). The resolution also mandated UNMEE to provide administrative and logistical support to the field offices of the Eritrea-Ethiopia Boundary Commission.

10. The deployment of UNMEE began with the establishment of military liaison offices in the capitals of the two countries in August 2000. In the following months, troops, military observers and civilian staff were deployed in the border area. The redeployment of Ethiopian forces from the area of the future temporary security zone was verified by UNMEE on 7 March 2001. On 18 April 2001, UNMEE declared the formal establishment of the Temporary Security Zone.

11. In accordance with standard practice, a status-of-forces agreement was concluded between Ethiopia and the United Nations on 23 March 2001 (United Nations, *Treaty Series*, vol. 2141, No. 37352). Owing to disagreement on a number of provisions, no such agreement was concluded with Eritrea. As a result, in accordance with Security Council resolution 1320 (2000), the model status-of-forces agreement (A/45/594, annex) of 9 October 1990 provisionally applies between the United Nations and Eritrea in respect of UNMEE.

V. Military Coordination Commission

12. The Military Coordination Commission established under paragraphs 6 and 7 of the Agreement on Cessation of Hostilities held 37 meetings between 2001 and 31 July 2006. As indicated in previous reports, the Commission has not been able to meet since July 2006. Ethiopia has maintained that it would resume its participation in the Commission's meetings only after Eritrea had restored the integrity of the Temporary Security Zone by withdrawing the troops and military equipment it has deployed in the Zone. For its part, Eritrea has maintained that it would attend the Commission's meetings if Ethiopia resumed its participation. During the period when the Commission was meeting on a regular basis, it provided the only forum in which the parties would engage in face-to-face discussions.

VI. Delimitation and demarcation of the boundary

13. In accordance with the relevant provisions of the Comprehensive Peace Agreement, the Eritrea-Ethiopia Boundary Commission was formally constituted in February 2001 to delimit and demarcate the common border between the two countries, based on pertinent colonial treaties and applicable international law. Under article 4.15 of the Agreement, the parties agreed that "the delimitation and demarcation determinations of the Commission shall be final and binding" and that each country "shall respect the border so determined, as well as the territorial integrity and sovereignty of the other party". In addition, under article 4.16 of the Agreement, the parties requested the United Nations to facilitate the resolution of problems that might arise due to the transfer of territorial control, including the consequences for individuals residing in previously disputed territory.

14. On 13 April 2002, the Eritrea-Ethiopia Boundary Commission issued its delimitation decision, which identified the boundary line by providing a list of

coordinates specifying the points through which the boundary runs. Both parties announced their acceptance of the decision shortly after it was rendered. In a statement issued on the same day, the Council of Ministers of Ethiopia stressed that the Government was "ready to implement the legal decision of the Commission". The Government of Eritrea, in a statement made on the same date, underlined that the "determination by the border Commission has reaffirmed what was clear four years ago and has vindicated Eritrea. When they signed the Algiers Peace Agreement in December 2000, both parties had committed themselves to accept the decision of the Commission as final and binding. Hence the question of acceptance of the decision is superfluous". The Eritrea-Ethiopia Boundary Commission then proceeded to open field offices in Asmara, Eritrea, and Addis Ababa and Adigrat, Ethiopia.

15. On 13 May 2002, Ethiopia submitted to the Eritrea-Ethiopia Boundary Commission a request for interpretation, correction and consultation, in which it questioned certain aspects of the Commission's delimitation decision. On 24 June 2002, the Commission issued a decision in response to Ethiopia's request, stating that "the provisions of articles 28 and 29 of the Rules of Procedure neither allow substantive amendment nor affect the binding quality of the Decision as rendered on 13 April 2002. Re-argument of the case is not permitted". It also stated, "Accordingly, the Commission concludes that the Ethiopian request is inadmissible and no further action will be taken upon it" (see S/2002/732, annex).

16. The Eritrea-Ethiopia Boundary Commission prepared the first set of demarcation instructions, based on the completion of the 1:25,000 scale map on which the border was to be marked. On 24 December 2002, the Commission provided the parties with copies of the map for their comments on the Commission's approach to the demarcation phase (see S/2003/257, annex I, paras. 1 and 2 and S/2003/257/Add.1, para. 8). In response, on 24 January 2003, Ethiopia issued a memorandum outlining its views on the process of demarcation, which pointed out that there was a need to conduct demarcation in a manner that would take into account the human and physical geography through a study of facts on the ground. It was stressed in the memorandum that adjustments should be made to address situations in which villages were divided or roads were cut by the boundary. For its part, Eritrea maintained that the delimitation line determined by the Commission's decision of 13 April 2002 should be applied without change. On 21 March 2003, the Commission stated that, in the absence of authorization by both parties, it had no authority to vary the delimitation line, except in cases of manifest impracticability (see S/2003/257/Add.1, para. 8).

17. Meanwhile, the Commission proceeded with activities required for the demarcation exercise, including field surveys starting in Sector East. Ethiopia agreed to the emplacement of pillars in that sector, but called for dialogue with Eritrea to facilitate demarcation in Sectors Centre and West, in the light of the issues outlined in its memorandum of 24 January (see para. 16 above). Eritrea, however, rejected the possibility of pillar emplacement in Sector East, unless demarcation began simultaneously in the other two sectors (see S/2003/1186, para. 15). Hence, at that time, the points for the emplacement of pillars were determined for Sector East only.

18. On 19 September 2003, the Prime Minister of Ethiopia, Meles Zenawi, addressed a letter to my predecessor in which he expressed the view that the

Commission's delimitation decision of 13 April 2002 on Badme and parts of Sector Centre was "totally illegal, unjust and irresponsible". He further indicated that the peace process was in "terminal crisis" and proposed that an alternative mechanism to demarcate the contested parts of the boundary in a just and legal manner be put in place (see S/2003/1186, annex I). Subsequently, in a statement to Parliament on 29 March 2007, the Prime Minister declared that Ethiopia had accepted the delimitation decision of the Eritrea-Ethiopia Boundary Commission "completely and unconditionally". Furthermore, in a letter dated 8 June 2007 addressed to the President of the Security Council, the Minister for Foreign Affairs of Ethiopia confirmed that his Government had accepted the delimitation decision of the Eritrea-Ethiopia Boundary Commission without preconditions. He underlined, however, that in order to implement the delimitation decision, Eritrea should restore the integrity of the Temporary Security Zone, including full withdrawal of its regular military forces and heavy equipment from the Zone, and lift all the restrictions it had imposed on UNMEE.

19. In order to help resolve the situation, on 29 January 2004 my predecessor appointed the former Minister for Foreign Affairs of Canada, Lloyd Axworthy, as his Special Envoy for Ethiopia and Eritrea (see S/2004/102). However, Eritrea did not agree to the appointment, which it characterized as an attempt to establish an alternative mechanism to the Eritrea-Ethiopia Boundary Commission (see S/2004/116).

20. Despite repeated attempts by the Eritrea-Ethiopia Boundary Commission during the next two years to advance the demarcation process, it could not break the impasse. As a result, the Commission issued a statement on 27 November 2006 announcing that if the parties failed to reach an agreement on the physical demarcation of the boundary by placing pillars on the ground with the Commission's assistance by the end of November 2007, the boundary would automatically stand as demarcated by the boundary points determined by the Commission on the basis of map coordinates, and the Commission would consider its mandate fulfilled. As no progress was made in the intervening period, on 30 November 2007 the Eritrea-Ethiopia Boundary Commission affirmed that, as at that date, the border was demarcated by coordinates ("virtual demarcation").

21. In response to that decision, the President of Eritrea, Isaias Afwerki, in a letter to the President of the Eritrea-Ethiopia Boundary Commission dated 19 November 2007, stated that "as far as the 'virtual demarcation' is concerned, there are numerous questions that could be raised in regard to its meaning, content and implications". At the same time, the letter conveyed "Eritrea's acceptance of this procedure as an important step forward towards the demarcation on the ground". In the letter, he also stated that "virtual demarcation does not represent completion of the process", and appealed to the Eritrea-Ethiopia Boundary Commission to persist "until erection of pillars to bring the process to its natural conclusion". Subsequently, in a letter dated 29 November 2007 addressed to the President of the Eritrea-Ethiopia Boundary Commission, the Legal Adviser to the President of Eritrea stated that "Eritrea acknowledges as both final and valid the coordinates that the Commission has specified and believes that these coordinates are as binding as other Commission decisions" (S//2007/693, annex).

22. For its part, Ethiopia, in a letter dated 27 November 2007 addressed to the President of the Eritrea-Ethiopia Boundary Commission from the Minister for

Foreign Affairs, stated that "in Ethiopia's view, these demarcation coordinates are invalid as they are not the product of a demarcation process recognized by international law".

23. Prior to the statement by the Eritrea-Ethiopia Boundary Commission of 30 November 2007 affirming the demarcation of the border by coordinates, I addressed identical letters dated 20 November 2007 to the President of Eritrea and the Prime Minister of Ethiopia, expressing my deep concern about the increasing tension on the ground and the continued military build-up by both countries. I urged both countries to take immediate steps to ease the tensions and pull their troops back and suggested that UNMEE convene a meeting of the Military Coordination Commission. Furthermore, I informed the two leaders of my intention to dispatch a senior United Nations official to Asmara and Addis Ababa in the following days to consult them on the appointment of my Special Representative for Ethiopia and Eritrea before taking a final decision on the matter.

24. Also on 20 November, the President of Eritrea addressed a letter to me reaffirming that "Eritrea has continued to respect the rule of law and uphold the integrity of the Algiers Peace Agreement" (see S/2007/681, annex). In the letter he also stated that the "Government of Ethiopia has endeavoured to force renegotiation of the final and binding Award" through "an endless series of pretexts designed to frustrate the demarcation process, to paralyse the Boundary Commission and to force the adoption of an 'alternative' mechanism". He further stated that "In the meantime, Ethiopia continues to occupy Eritrean territories by force in violation of international law and the Algiers Agreement". He added that the responsibility for the Commission's inability to proceed further towards physical demarcation of the border "lies squarely on the shoulders of the Government of Ethiopia", and urged me to "take necessary measures to redress the situation before it is too late".

25. On 23 November 2007, I received a letter from the Prime Minister of Ethiopia in which he stated that Eritrea was responsible for the latest tension, as it had "occupied the Temporary Security Zone". He added that Eritrea had refused to lift the restrictions on the operations of UNMEE and was in violation of the Agreement on Cessation of Hostilities. The letter contained a reference to the decision of the Boundary Commission that "the continuation of its activities would serve no useful purpose" and stated that "Ethiopia fully agrees with this decision" as "this may offer an opportunity to break the present stalemate, which is unlikely to be resolved as matters stand now". Finally, he expressed full support for my efforts to be "a bridge" between Ethiopia and Eritrea and for the proposed appointment of my new Special Representative.

26. On 24 November 2007, I received another letter from the President of Eritrea, in response to my letter of 20 November. In his letter, the President denied that there was a military build-up on the Eritrean side and informed me that the Eritrean Government "cannot comment, in the prevailing circumstances", on the possible appointment of my Special Representative. He urged me again to "shoulder" my responsibilities to "ensure the rule of law and the prevalence of justice".

27. I replied to the two leaders in identical letters dated 29 November, by which I welcomed the repeated acceptance, without preconditions, by both Ethiopia and Eritrea, of the final and binding delimitation decision of the Eritrea-Ethiopia Boundary Commission and stressed that the non-implementation of that decision, as well as the erosion of other aspects of the Algiers Agreements, continued to

undermine the prospects for a lasting peace between the two countries. I reminded both leaders that the Security Council had recently urged the parties to take concrete steps immediately and without preconditions towards the implementation of the final and binding delimitation decision of the Eritrea-Ethiopia Boundary Commission and to comply fully with the Algiers Agreements. Furthermore, I informed the two leaders of my intention to dispatch a senior United Nations official to discuss with them ways to begin the demarcation process, in accordance with the Algiers Agreements.

28. On 11 December 2007, I addressed a letter to the President of the Security Council, informing him of my letters of 20 and 29 November to the leaders of the two countries. President Afwerki subsequently wrote to the President of the Council on 21 December 2007, stating that he found my letters "out of consonance with" reality. In his letter, President Afwerki stated that Ethiopia "remains in unlawful occupation of Eritrean territory" and urged the Security Council "to redress this injustice in accordance with its legal responsibilities under the Algiers Agreement, the Charter of the United Nations and the general principles of international law" (see S/2008/40, para. 21).

29. In another letter addressed to the President of the Security Council, dated 15 January 2008, President Afwerki expressed the view that UNMEE, in its present role, was "maintaining occupation" (see S/2008/40, para. 22). He also called on the Council "to shoulder its responsibilities" by compelling Ethiopia to withdraw from Eritrean sovereign territories.

30. Subsequently, in its resolution 1798 (2008), the Security Council stressed that the physical demarcation of the border between the two countries would support a comprehensive and lasting settlement of the dispute and normalization of their relations. The Council also demanded that the parties immediately take concrete steps to complete the process launched by the Comprehensive Peace Agreement of 12 December 2000 by enabling the physical demarcation of the border. On 1 February, Eritrea issued a press release stating that it found resolution 1798 (2008) to be "irrelevant". In the view of Eritrea, the resolution violated the Charter of the United Nations, had no basis in the Algiers Agreements and disregarded the lawful and authoritative decision of the Boundary Commission.

VII. Situation on the ground and operations of the United Nations Mission in Ethiopia and Eritrea

31. Except for a few minor incidents and periods of tension, the overall security situation in and around the Temporary Security Zone remained relatively calm and stable until October 2006, when armed soldiers of the Eritrean Defence Forces, along with tanks and artillery, entered the Zone in Sector West. This incursion into the Zone was in violation of the security arrangements of the Agreement on Cessation of Hostilities. Despite protests by the United Nations, Eritrea not only retained, but steadily increased, its military presence inside the Temporary Security Zone. Ethiopia has also considerably increased its military presence in the border area. The military reinforcements on both sides reached a peak in November 2007 and have not decreased since. Currently, the forces of the two countries literally face each other in many locations along the southern boundary of the Temporary Security

Zone. This has resulted in a number of shooting incidents between the two forces over the past several months.

32. Since early 2004, Eritrea has imposed a number of restrictions on UNMEE. The first restriction was the closure, in March 2004, of the Asmara-Keren-Barentu road, which was the Mission's main supply route between Asmara and Sector West. Other increasingly severe measures followed, including, since late 2005, restrictions on the freedom of movement of UNMEE patrols in certain parts of the Temporary Security Zone and adjacent areas, the prohibition of UNMEE night patrols and the restriction of patrols to main supply routes; the banning, since October 2005, of United Nations helicopter flights in Eritrean airspace; and the expulsion, in December 2005, of UNMEE international staff who are nationals of Canada, the Russian Federation, the United States of America and countries of Europe. Details of these restrictions have been provided in my previous reports to the Security Council.

33. In addition, as indicated in my report of 23 January (S/2008/40 and Corr.1), in September 2006 the Eritrean authorities started limiting fuel supplies to UNMEE to only 50 per cent of the Mission's monthly requirements, forcing it to scale down its operations. As indicated in my report of 3 March (S/2008/145), on 1 December 2007 Eritrea stopped all fuel supplies to UNMEE, resulting in the crisis that forced the temporary relocation of the Mission from Eritrea.

34. UNMEE has experienced some relatively minor restrictions on the Ethiopian side. In 2007, the Mission encountered some restrictions on its freedom of movement in the areas of Bure in Subsector East, Humera in Sector West and Rama in Sector Centre. Ethiopia had lifted all these restrictions by the end of November 2007, and currently no restrictions are imposed by Ethiopia on the Mission's operations.

VIII. The future of the United Nations Mission in Ethiopia and Eritrea

35. As indicated in my report of 3 March, the military personnel deployed in Ethiopia were not affected by the fuel crisis that forced the relocation of UNMEE from the Temporary Security Zone and the temporary suspension in the implementation of the Mission's operations on the Eritrean side. The Mission's military personnel on the Ethiopian side have therefore continued to carry out their mandated tasks.

36. Following the further temporary relocation of the Eritrea-based military personnel to their home countries, the UNMEE presence in Eritrea currently consists of 164 military personnel, who constitute a rear party that will remain in the country to protect contingent-owned equipment until the equipment has been shipped. In addition, a small number of civilian personnel continue to maintain liaison with the Eritrean authorities and provide administrative support in handling the remaining Mission equipment. In Ethiopia, the UNMEE presence consists of some 302 military personnel, including 90 military observers, deployed at seven sites along the southern boundary of the Temporary Security Zone and at UNMEE headquarters in Addis Ababa.

37. As noted in my report of 3 March, the technical assessment mission, which visited UNMEE from 6 to 11 February, had intended to seek the views of the authorities of both Eritrea and Ethiopia on issues related to the relocation of personnel, as well as the future direction of UNMEE. I regret to report that the technical assessment mission was unable to visit Eritrea, as the participants were denied visas to enter the country. However, prior to the arrival of the technical assessment mission in Addis Ababa, UNMEE, in a meeting with the Eritrean authorities in Asmara, had requested that the Mission be allowed to retain those of its existing deployments that were located along the border, namely, those at Deda Lala, Serha, Mereb Bridge and Point 74, on the Eritrean side, with fuel supplies from Ethiopia, following the emergency relocation of the rest of the Mission's personnel from the Temporary Security Zone. The Eritrean authorities informed UNMEE that if the United Nations decided to relocate its personnel and equipment from Eritrea, the Government of Eritrea would not accept any partial UNMEE presence on its territory. At the same time, as explained in my previous report, the Eritrean authorities did not take any steps to address the fuel crisis and thereby enable the Mission to remain in the Temporary Security Zone.

38. On 15 February 2008, the Ministry of Foreign Affairs of Eritrea issued a press release stating that the Government of Eritrea "cannot discuss or acquiesce in temporary relocation or some other new arrangement that is at variance with the provisions of the Algiers Peace Agreement, as the mandate as well as the circumstances and modalities of UNMEE's deployment and termination of functions are explicitly stipulated in the Algiers Agreement". Subsequently, in a letter dated 10 March addressed to the President of the Security Council, the Permanent Representative of Eritrea stated that "there is still lack of clear information from the Secretariat to the Government on critical matters that pertain to the future status of UNMEE". He noted that my report dated 3 March "should have been cognizant of the importance of Eritrea to be part of the decision process that affects the status of UNMEE both as a host country of the mission and a concerned party in the matter" (S/2008/172).

39. On 20 March, the Assistant Secretary-General for Peacekeeping Operations, Edmond Mulet, met with the Permanent Representative of Eritrea to seek his Government's views on the future of UNMEE and on the options identified in the present report. The Permanent Representative, however, stated that he would not discuss the Mission's future or the options regarding the United Nations peacekeeping presence in the border area because the United Nations had already taken the decision to relocate the Mission without consulting Eritrea. The Permanent Representative also pointed out that the President of Eritrea had already written to me on 15 January 2008, stating that since the Eritrea-Ethiopia Boundary Commission had already demarcated the border, the presence of UNMEE was prolonging the occupation by Ethiopia of territory awarded to Eritrea. The Permanent Representative emphasized that Eritrea would like the United Nations to ensure the withdrawal of Ethiopia from the territory of Eritrea.

40. Subsequently, I received a letter from President Afwerki dated 25 March stating that "to request 'Eritrea's views on the future role' of UNMEE is again tantamount to nudging us to abandon the cardinal issue and to accept and legitimize the occupation of our land" (see S/2008/200, annex). He further stated that, instead of focusing on "minor matters such as 'fuel supplies to UNMEE, or its equipment and properties'", the major obligation of the United Nations and the Security

Council was to ensure the withdrawal of Ethiopian occupation from sovereign Eritrean territories. He reiterated that the border between the two countries "has been delimitated and demarcated", stating "Whether pillars are placed along the border or not is in fact immaterial for all legal and practical purposes".

41. For their part, the authorities of Ethiopia informed the technical assessment mission that Ethiopia would find it extremely difficult to accept the long-term deployment of UNMEE limited only to the Ethiopian side of the border. They expressed concern that such a deployment would effectively create a new security zone on Ethiopian territory, with serious legal implications for the status of the Agreement on Cessation of Hostilities and the Temporary Security Zone. The authorities of Ethiopia emphasized that it was essential to preserve the integrity of the Agreement on Cessation of Hostilities and the sanctity of the Temporary Security Zone, and that the maximum Ethiopia could agree to was an emergency relocation of UNMEE, for a limited duration and for the purpose of ensuring the safety and security of the peacekeepers, while the Security Council decides on the future of the Mission.

42. On 25 March, the Under-Secretary-General for Peacekeeping Operations, Jean-Marie Guéhenno, discussed the options identified in the present report with the Chargé d'affaires a.i. of the Permanent Mission of Ethiopia. The Chargé d'affaires informed the Under-Secretary-General that Ethiopia would continue to cooperate with the United Nations and would consider the proposed options. He stressed that the two parties had the primary responsibility to resolve the dispute between them and that Ethiopia would support the Secretary-General's good offices and was ready to meet with Eritrea to discuss the dispute. In addition, he reiterated that it was essential to preserve the integrity of the Agreement on Cessation of Hostilities and the status of the Temporary Security Zone.

43. Following that meeting, the Minister for Foreign Affairs of Ethiopia addressed a letter to me dated 28 March (S/2008/214, annex), in which, among other things, he reiterated that any recommendation to the Security Council on the future of UNMEE should not affect the validity of the Agreement on Cessation of Hostilities and that the integrity of the Temporary Security Zone should be fully respected.

44. On 26 March, my Chef de Cabinet, Vijay Nambiar, met with the Permanent Representative of Eritrea, who stated that the Eritrean authorities were fully prepared to cooperate in the relocation of UNMEE and that the Government of Eritrea would facilitate the transportation of the Mission's equipment to the seaports of Assab and Massawa, as requested by UNMEE. Furthermore, the Permanent Representative informed the Chef de Cabinet that the Eritrean authorities would be prepared to transport, using their own transportation arrangements, all United Nations and contingent-owned equipment left at team sites and contingent posts in the Temporary Security Zone to Asmara and Assab. In order that that might be done, he requested that the Eritrean authorities be provided with an inventory of all equipment left in the Temporary Security Zone. UNMEE and the Secretariat undertook to follow up with the authorities of Eritrea and provide the inventory lists.

45. During their recent informal consultations on UNMEE, members of the Security Council repeatedly stressed the need for the parties to live up to their commitments under the Agreement on Cessation of Hostilities and the Comprehensive Peace Agreement. Council members have also consistently

expressed their concern about the impact of the continued impasse on regional peace and stability, and emphasized the importance of the conflict-prevention role played by UNMEE, in accordance with its present mandate.

46. Taking into account the views expressed by Council members, together with the positions of Eritrea and Ethiopia, as outlined above, the following options could be considered for the United Nations peacekeeping presence in Eritrea and Ethiopia:

(a) As stated in my report of 3 March, there is still an opportunity for Eritrea to reconsider its position, resume fuel supplies to UNMEE, lift all restrictions on the Mission and allow it to continue to perform the tasks originally envisaged in the Agreement on Cessation of Hostilities. Eritrea has yet to take steps to change its position and has informed UNMEE that it would consider making fuel available only for the relocation of the Mission's equipment;

(b) In the absence of the conditions necessary to carry out its mandate under resolution 1320 (2000), UNMEE could be terminated, leaving no United Nations peacekeeping presence in the area;

(c) A small observer mission could be deployed in the border area, which would endeavour to defuse tensions between the armed forces of the two countries, serve as the eyes and ears of the international community and continue to report to the Security Council on the situation;

(d) Liaison offices staffed with civilian and military personnel could be established in Asmara and Addis Ababa to maintain United Nations readiness to assist the parties in the implementation of the border demarcation decision of the Eritrea-Ethiopia Boundary Commission, as well as article 4.16 of the Comprehensive Peace Agreement, should they eventually agree to proceed with the physical demarcation process.

IX. Observations and recommendations

47. The military occupation by Eritrea of the Temporary Security Zone and the restrictions it has imposed on UNMEE are a violation of the Agreement on Cessation of Hostilities and have undermined the very basis of the Mission's mandate. The options proposed in paragraph 46 above are not ideal; they bear considerable risks and would not resolve the serious dilemma created by the restrictions that have prevented the Mission from performing its mandate and eventually forced it to relocate from the Temporary Security Zone. Yet the prevailing circumstances seriously limit the available courses of action.

48. The total withdrawal of UNMEE as proposed in option (b) above could result in an escalation of tensions in the border area, with the risk of a resumption of open hostilities, despite declarations by the two parties that they have no intention of restarting the war. The deployment of an observer mission under option (c) above would require the agreement of both countries. Such a mission could provide valuable information and early warning to the Security Council. Its mere presence in the area may not provide adequate deterrence, especially against the possible accidental resumption of hostilities. Finally, option (d) above would work only if both parties were prepared to proceed with the implementation of the final and binding decision of the Eritrea-Ethiopia Boundary Commission, with the support of the United Nations.

49. Should one party reject option (c) and the other accept the deployment of the military observers on one side only, this possibility could be explored. I would like to stress to the Security Council, however, that an observer mission deployed on one side of the border only would not be able to fully monitor the Temporary Security Zone and thus effectively assist the parties in the implementation of the Agreement on Cessation of Hostilities. In addition, such a mission could be perceived by one party as freezing the status quo and serving the interests of the other, with serious implications for perceptions of the impartiality of the United Nations.

50. Options (b), (c) and (d) would also raise fundamental issues with regard to the Algiers Agreements. In particular, the termination of the mandate of UNMEE and the total withdrawal of the Mission would have implications for the status of the Temporary Security Zone. In my communications with the parties during the recent crisis, I have maintained that the temporary relocation of UNMEE is without prejudice to the provisions of the Agreement on Cessation of Hostilities, including the sanctity of the Temporary Security Zone. Only option (c), with deployment on both sides, would provide a peacekeeping presence that could make it possible, to some extent, to monitor and preserve the integrity of the Zone.

51. Another dilemma is that none of the options would, on its own, address the fundamental issues perpetuating the dispute between the two countries. The position of Ethiopia that the demarcation coordinates determined by the Eritrea-Ethiopia Boundary Commission are invalid (see para. 22 above) raises questions about its commitment to accepting the final and binding status of decisions of the Commission under article 4.15 of the Comprehensive Peace Agreement. The continuing impasse is unacceptable and fraught with risks to international and regional peace and stability. Any option decided upon by the Security Council would therefore require the full and active engagement of the Council with the two parties, with a view to addressing the underlying legal, political and security issues, including the implementation of the decisions of the Eritrea-Ethiopia Boundary Commission, in accordance with the Algiers Agreements, which should make it possible to normalize the relations between the parties.

52. The two parties bear the primary responsibility for resolving their border dispute, and each should muster the political will to take the steps necessary to address the legitimate legal, political and security concerns of the other. The Security Council, too, has a responsibility to address this matter. For my part, I have offered my good offices to the two parties to facilitate the implementation of the decisions of the Eritrea-Ethiopia Boundary Commission. I intend to continue with my efforts to convince both parties to avail themselves of this offer.

53. Should Eritrea not reverse its position as proposed in option (a), options (c) and (d), taken together, would appear to offer a course of action that could preserve the integrity of the Agreement on Cessation of Hostilities and the sanctity of the Temporary Security Zone and facilitate efforts to address the fundamental issues, if accepted by both parties and if accompanied by full and active Security Council engagement with the two parties. I therefore recommend that the Security Council authorize me to explore with the two parties the possibility of securing their agreement to option (a) and either options (c) or (d), or both, with the clear understanding that if any of these arrangements is accepted, it would have to be accompanied by parallel Security Council efforts to effectively address the fundamental legal and political issues at the heart of the dispute between the two

countries. To that end, the Security Council may wish to consider sending a mission to Asmara and Addis Ababa to discuss these issues with the two parties.

54. In the meantime, I will engage the parties on the four options referred to above and submit a further report, for consideration by the Council before the expiration of the mandate of UNMEE on 31 July, setting out the details of the outcome of my consultations with the parties and specific proposals agreed upon with them concerning the United Nations peacekeeping presence in the border area. Pending a final discussion by the Security Council on the envisaged recommendations, the temporary relocation of UNMEE from Eritrea and the current deployments of the Mission in Ethiopia would remain in place as an interim arrangement.

55. It is essential that the Security Council make the necessary decisions as a matter of priority. I also urge the Governments of Eritrea and Ethiopia, in the interest of regional peace and security, to take into account the serious consequences of the continued stalemate and accept the assistance of the Security Council and my good offices in fully implementing the agreements they have entered into.

56. In conclusion, I wish to express my deep gratitude to my Acting Special Representative for Ethiopia and Eritrea, Azouz Ennifar, and all civilian and military personnel of the Mission for their continued commitment and hard work in a very difficult and dangerous environment to help maintain peace and stability between Ethiopia and Eritrea. I pay tribute to all partners of the Mission, the African Union, the other witnesses to the Algiers Agreements and the Friends of UNMEE, as well as the United Nations country team, humanitarian agencies and other international organizations, for the unwavering support they provide to the peace process.